



**A = Approved, A1 = Approved First Reading, A2 = Approved Second Reading, D = Deferred,
NA = No Action, PH = Authorized Public Hearing, AD = Approval Denied**

ACTION AGENDA

Hickory City Council
76 North Center Street

September 7, 2021
7:00 p.m.

- I. Call to Order
- II. Invocation by Reverend Whit Malone, First Presbyterian Church
- III. Pledge of Allegiance
- IV. Special Presentations
- V. Persons Requesting to Be Heard

Seventeen individuals addressed Council with comments related to Rezoning Petition 21-04 located at 2909 16th Street NE.
- VI. Approval of Minutes
- A. A. Regular Meeting of August 17, 2021. **(Exhibit VI.A.)**
- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.
- A2. A. Budget Revision Number 3. **(First Reading Vote: Unanimous)**
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.
- A. A. Cemetery Deed Transfer from R. Paul Kercher aka Paul R. Kercher and wife, Sylvia Kercher to Ronald E. Bogle, (Oakwood Cemetery, Eastern One-Half for Plot E, Lot Number 3, Section 39) (Prepared by Terry M. Taylor, Attorney at Law). **(Exhibit VIII.A.)**
- A. B. Cemetery Deed Transfer from Sara C. Shores, widow, to Rachael A. LeClair, married, (Oakwood Cemetery Section 51, Plot L, Lot 3, Spaces 1 and 2.) (Prepared by Jennifer E. Eckard, Attorney at Law) **(Exhibit VIII.B.)**
- A. C. Approval of a Loan Settlement for Property Located at 1612 Main Avenue Drive NW, Hickory. **(Exhibit VIII.C.)**

Staff requests City Council's approval of a Community Development Block Grant (CDBG) loan settlement of \$10,000 for 1612 Main Avenue Drive NW. The home at 1612 Main Avenue Drive NW was recently purchased prior to foreclosure by Daniel Robbins. The home was previously owned by the Phillip David and Leoma Emmett Williams who, during their period of ownership, used the City's CDBG Housing Rehabilitation Loan Program for repairs to their home. At the time of purchase by Mr. Robbins, the CDBG loan had not been settled through the foreclosure process. The remaining balance on the CDBG loan as of today is \$21,017.26. Mr. Robbins had made an offer to settle this debt with a payment

to the City of Hickory in the amount of \$10,000 and this has been approved by the Citizen's Advisory Committee. Staff recommends approval of a loan settlement with Mr. Daniel Robbins in the amount of \$10,000 to satisfy the outstanding lien for CDBG Housing Rehabilitation Loan in the amount of \$21,017.26 for the property at 1612 Main Avenue Drive NW.

- A D. Approval of a Community Appearance Grant with CHS Real Estate Properties, LLC for Non-Residential Property Located at 219 10th Street SW in the Amount of \$7,500. **(Exhibit VIII.D.)**

The Community Appearance Commission recommends City Council's approval of a Community Appearance Grant for non-residential property owned by CHS Real Estate Properties, LLC located at 219 10th Street SW in the amount of \$7,500. City Council created the Community Appearance Grant program to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$7,500. The grant proposal involves the replacement of the building's doors and painting of the building's exterior. The property is located within the City's defined Urban Revitalization Area and is eligible for the consideration of a Community Appearance Grant. The applicant provided two estimates. The low estimate for the work totals \$21,600. The subject property's current tax value is assessed at \$125,300. The requested grant amounts to 5.9 percent of the property's tax value. The application was reviewed by the Community Appearance Commission. After consideration the Commission scored the application at 22 points out of a possible 36 points, which placed the application into the high category of scoring. Given the score, The Commission unanimously recommends funding of the grant application in the amount of \$7,500.

- A E. Approval of Change Order Number Three to the Agreement for Professional Services Required as Part of the BUILD Grant, with TGS Engineers for Design Modifications, Consulting Services, and Additional Lighting Services Related to Aviation Walk (EB-6038) in the Amount of \$135,172.81, Eligible for 80 Percent North Carolina Department of Transportation Reimbursement and 20 Percent City of Hickory. **(Exhibit VIII.E.)**

Staff requests Council's approval of change order number three to the agreement for professional services with TGS Engineers for construction phase services including design modifications, and consulting services as directed by the City of Hickory during the construction phase of EB-6038 and additional services for lighting designs by VHB, Inc. in the amount of \$135,172.81, contingent upon North Carolina Department of Transportation (NCDOT) concurrence. The project requirements changed beyond the original scope of services for this project based on direction from the City of Hickory, NCDOT, and Duke Energy. This project consists of the construction of a multi-use trail in two sections: construct a multi-use path along Main Avenue NW from 9th Street NW to 11th Street NW and then along 11th Street NW to Old Lenoir Road; construct a multi-use path from Old Lenoir Road to US 321 including a bike/ped bridge over US 321 to 13th Avenue Drive NW, from there, it continues across multiple properties to L.P. Frans Stadium and ends at the Hickory Regional Airport. Change order number three identified additional services that include design modifications and consulting services during the construction phase of this project by TGS and additional services for lighting design by VHB. Staff recommends Council's approval of change order number three to the agreement for professional services with TGS Engineers for design modifications and consulting services and additional lighting services by VHB, Inc. related to EB-6038 in the amount of \$135,172.81, contingent upon NCDOT concurrence.

- A F. Approval of Change Order Number Two to the Agreement for Professional Services Required as Part of the BUILD Grant, with Vaughn & Melton Consulting Engineers, Inc. for Design Modifications and Consulting Services Related to the OLLE Art Walk in the Amount

of \$11,217.35, Eligible for 80 Percent North Carolina Department of Transportation Reimbursement and 20 Percent City of Hickory. **(Exhibit VIII.F.)**

Staff requests Council's approval of change order number two to the agreement for professional services with Vaughn & Melton Consulting Engineers, Inc. for construction phase services including design modifications and consulting services as directed by the City of Hickory during the construction phase of EB-5977 in the amount of \$11,217.35, contingent upon North Carolina Department of Transportation (NCDOT) concurrence. Change order number two for 9th Street NW multi-use trail identifies additional services that include design modifications and consulting services during the construction phase of this project. City of Hickory's portion of the fees will be funded by bond proceeds. Staff recommends Council's approval of change order number two to the agreement for professional services with Vaughn & Melton Consulting Engineers, Inc. for design modifications and consulting services related to EB-5977 in the amount of \$11,217.35, contingent upon NCDOT concurrence.

- A** **G.** Approval of Change Order Number Two to the Agreement for Professional Services Required as Part of the BUILD Grant, with Vaughn & Melton Consulting Engineers, Inc. for Design Modifications and Consulting Services in the Amount of \$43,853.22, for OLLE Art Walk, Eligible for 80 Percent North Carolina Department of Transportation Reimbursement and 20 Percent City of Hickory. **(Exhibit VIII.G.)**

Staff requests approval of change order number two to the agreement for professional services with Vaughn & Melton Consulting Engineers, Inc. for construction phase services including design modifications and consulting services as directed by the City of Hickory during the construction phase of EB-5911 in the amount of \$43,853.22, contingent upon North Carolina Department of Transportation (NCDOT) concurrence. Change order number two for Old Lenoir Road multi-use trail identifies additional services that include design modifications and consulting services during the construction phase of this project. City of Hickory's portion of the fees will be funding by bond proceeds. Staff recommends Council's approval of change order number two to the agreement for professional services with Vaughn & Melton Consulting Engineers, Inc. for design modifications and consulting services related to EB-5911 in the amount of \$43,853.22, contingent upon NCDOT concurrence.

- A** **H.** Approval of an Agreement for Professional Services with A. Morton Thomas Associates, Inc. for CEI Services Required as Part of the BUILD Grant, related to the BUILD Project (EB-6038) Aviation Walk, in the Amount of \$1,808,918.27, Eligible for 80 Percent North Carolina Department of Transportation Reimbursement and 20 Percent City of Hickory. **(Exhibit VIII.H.)**

Staff requests Council's approval of an agreement for professional services with A. Morton Thomas Associates, Inc. for CEI Services related to the BUILD Project (EB-6038) in the amount of \$1,808,918.27. This project consists of the construction of a multi-use trail in two sections: construct a multi-use path along Main Avenue NW from 9th Street NW to 11th Street NW and then along 11th Street NW to Old Lenoir Road; construct a multi-use path from Old Lenoir Road to US 321 including a bike/ped bridge over US 321 to 13th Avenue Drive NW, from there, it continues across multiple properties to L.P. Frans Stadium and ends at the Hickory Regional Airport. A. Morton Thomas Associates, Inc. (AMT) was selected based on qualifications-based proposals and was concurred by North Carolina Department of Transportation (NCDOT). AMT's fees were negotiated by City of Hickory staff and NCDPT staff. Fees are eligible for reimbursement with NCDOT funds at the same ratio of 80 percent NCDOT and 20 percent City of Hickory. Staff request Council's approval of an agreement for professional services with A. Morton Tomas Associates, Inc. for CEI Services related to the City Walk Project in the amount of \$1,808,918.27, contingent upon NCDOT concurrence.

- A** **I.** Approval of a Quitclaim Deed From the City of Hickory to Richard J. Kania, Commissioner for Property Located at 3211 Falling Creek Road NE. **(Exhibit VIII.I.)**

Staff requests City Council's approval of a quitclaim deed from the City of Hickory to Richard J. Kania, Commissioner, for the Millenia property located at 3211 Falling Creek Road NE, Parcel ID# 3714-14-44-1589. The City of Hickory has engaged the Kania Law Firm to conduct judicial foreclosures on properties that Code Enforcement has abated for nuisances, and the owners have not paid the attached liens and brought the properties into compliance. The Millenia property (a large warehouse type building) referenced above was referred to Kania for prosecution of a foreclosure action. The property has abatement liens and unpaid County and City property taxes. As there were no bidders at the foreclosure sale, the City of Hickory took ownership of the property. The opening bid was \$90,000. Attorney Richard Kania, the Court appointed Commissioner for the foreclosure sale, recorded a Commissioner's Deed conveying the property to the City on July 29, 2021. However, the recordation occurred prior to the Court confirming the foreclosure sale which meant he lacked statutory authority to convey the property to the City. Subsequently, legal counsel for the bank holding a mortgage on the property contacted Kania and stated they wanted to conduct their own tax foreclosure on the property, and they would submit the total payoff for the property (\$90,000). In order for any potential clouds on the title to be removed, the City must quitclaim the property back to the Commissioner. Quitclaiming the property is the best course of action for the City. Code Enforcement staff have determined it will be difficult for the City to find a buyer for the property primarily due to the estimated costly repairs needed to restore or demolish the property. Staff requests City Council's approval of a quitclaim deed from the City of Hickory to Richard J. Kania, Commissioner for the Millenia property located at 3211 Falling Creek Road NE, Parcel ID# 3714-14-44-1589.

- A J.** Approval of a Contract with GeoSurfaces Southeast in the Amount of \$494,059 for an Artificial Turf Field at Henry Fork Soccer Complex. **(Exhibit VIII.J.)**

Staff requests Council's approval of a contract with GeoSurfaces Southeast for construction and installation of a second artificial turf field at Henry Fork Soccer Complex in the amount of \$494,059. The City of Hickory purchased twenty-one acres adjacent to Henry Fork River Park a couple of years ago to provide additional parking for visitors and to expand the field inventory to include additional artificial turf fields. GeoSurfaces was selected as the best vendor to install a second artificial turf field based on their success with the first project and the desire to have the new field match the other turf field that was installed in early 2021. The City of Hickory is working with Clayton Engineering and Design for the civil design and construction management of the project. In the FY 19-20 Budget, the City issued debt through an installment purchase financing of \$7.5 million for projects including the first artificial turf field, Ridgeview Library expansion, ARC Road improvements and the City portion of the Lackey project. There was \$489,376 remaining after funding the projects above, and this amount fell to General Fund Balance on June 30, 2021. Staff recommends Council's approval of a contract with GeoSurfaces Southeast for construction and installation of a second artificial turf field at the Henry Fork Soccer Complex in the amount of \$ 494,059, and appropriation of the same amount from General Fund Balance.

- A1 K.** Budget Revision Number 4. **(Exhibit VIII.K.)**

1. To appropriate \$210,750 in proceeds from financing towards the Metro Center Project for architectural/engineering services. City Council approved this change order to the contract with Scott Mitchell Design Architects last fiscal year.
2. To recognize and appropriate \$23,035 in funding from Catawba County Sheriff's Office to purchase software that will be used in criminal investigations by the Police Department.
3. To appropriate \$35,686 from General Fund Balance towards computer equipment and inventory for the IT Department.
4. To appropriate \$70,000 from General Fund Balance for miscellaneous park improvements.
5. To appropriate \$494,059 from General Fund Balance towards the Henry Fork Soccer Complex for the approval of a contract with GeoSurfaces Southeast for construction and installation of a second artificial turf field.

6. To appropriate \$43,854 in General Fund Balance to transfer to the General Capital Projects Fund towards OLLE Walk for Change Order #2 to the Agreement for Professional Services with Vaughn & Melton Consulting Engineers for design modifications and consulting services.
7. To appropriate \$11,218 in General Fund Balance to transfer to the General Capital Projects Fund towards the 9th Street portion of OLLE Walk for Change Order #2 to the Agreement for Professional Services with Vaughn & Melton Consulting Engineers for design modifications and consulting services.
8. To appropriate \$1,808,919 in 2021, GO Bond Proceeds towards the Aviation Walk Project for an Agreement for Professional Services with A. Morton Thomas Associates, Inc. for CEI Services as required by the USDOT.
9. To appropriate \$135,173 in 2021, GO Bond Proceeds towards the Aviation Walk Project for an Agreement for Professional Services with TGS Engineers for design modifications and consulting services and additional lighting services by VHB, Inc.

IX. Items Removed from Consent Agenda – None

X. Informational Item

XI. New Business:

A. Public Hearings

- A1** 1. Consideration of Rezoning Petition No. 21-04 for Property Located at 2909 16th Street NE – Presentation by Planning Manager Cal Overby. **(Exhibit XI.A.1.)**

A petition has been submitted requesting the consideration of rezoning property located at 2909 16th Street NE (Sandy Ridge Road) from Medium Density Residential (R-2) to Planned Development (PD). The subject property is zoned Medium Density Residential (R-2) and is requested to be rezoned to Planned Development (PD). Under the current R-2 zoning the property could be developed for detached single-family residential at a density of four units per acre, which could theoretically yield 142 units. The proposal put forth is to construct a residential community, consisting of single-family attached (townhomes) and detached cottage units. The breakdown of unit types is 139 single-family attached (townhomes) units, and 150 detached cottage units, and represents a density of 8.1 units per acre. The proposal also employs conservation development principals with substantial open spaces areas. The Hickory Regional Planning Commission conducted a public hearing on August 25, 2021, to consider the petition. Upon closing the public hearing, the Hickory Regional Planning Commission voted unanimously (7-0) to affirm the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan, and recommended City Council's approval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on August 27, and September 3, 2021.

B. Departmental Reports

- A** 1. Guidelines for Redistricting – Presentation by City Manager Warren Wood. **(Exhibit XI.B.1.)**

- NA** 2. Appointments to Boards and Commissions

CITIZENS ADVISORY COMMITTEE

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Small Cities Project Area Grace McLaurin Resigned 7-12-2021 VACANT

COMMUNITY APPEARANCE COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 4 (Alderman Williams Appoints) (Charlette Gore Resigned 8-23-21) VACANT
 At-Large (Outside City but within HRP) (Council Appoints) VACANT

COMMUNITY RELATIONS COUNCIL

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Other Minority (Council Appoints) VACANT
 Other Minority (Council Appoints) VACANT
 Other Minority (Council Appoints) VACANT
 Differently Abled and is African American or Other Minority (Council Appoints) VACANT
 Differently Abled (Council Appoints) Beth Whicker
 (Not Eligible for Reappointment)

HISTORIC PRESERVATION COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Licensed Architect (Council Appoints) Ernie Sills
 (Not Eligible for Reappointment)
 At-Large (2)(Council Appoints) Mary Moorer
 (Eligible for Reappointment/Does Not Wish to Serve Again)

LIBRARY ADVISORY BOARD

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Ward 6 (Patton Appoints) Gail Miller
 (Eligible for Reappointment/Does Not Wish to Serve Again)

PUBLIC ART COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Ward 4 (D. Williams Appoints) VACANT
 At-Large (Mayor Appoints) Beth Bowman
 (Not Eligible for Reappointment)

PUBLIC HOUSING AUTHORITY

(Terms Expiring 6-30; 5-Year Terms) (Appointed by the Mayor)
 Position 3 (Mayor Appoints) VACANT
 Position 9 (Mayor Appoints) (Unexpired Term of Rebecca Clements) VACANT

YOUTH COUNCIL

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

Youth Council Applicant Review Committee Recommends the Following Appointments:

Fred T. Foard VACANT
 Homeschool VACANT

C. Presentation of Petitions and Requests

XII. Matters Not on Agenda (requires majority vote of Council to consider)

XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature

XIV. Closed Session Per NC General Statutes 143-318.11(a)(1)(3) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)

- A**
1. Approval of Closed Session Minutes of August 3, 2021 - NCGS §143-318.11(a)(1)
 2. Discussion of Pending Opioid Litigation – NCGS §143-318.11(a)(3)

XV. Adjournment

***Hickory City Code Section 2-56. Public Address to Council:**

“When conducting public hearings, considering ordinances, and otherwise considering matters wherein the public has a right to be heard, when it appears that there are persons present desiring to be heard, the Mayor shall require those opposing and favoring the proposed action to identify themselves. Each side of the matter shall be given equal time. Those opposing the proposed action shall be allowed 15 minutes for presentation, followed by 15 minutes for those favoring the action, with the opponents then to have five minutes for rebuttal and the proponents to then have five minutes for surrebuttal. Those persons on either side shall have the right to divide their allotted time among them as they may choose. The Council, by majority vote, may extend the time for each side equally. On matters in which the person desiring to address the Council does not have a legal right to speak, the Council shall determine whether it will hear the person. The refusal to hear a person desiring to speak may be based upon grounds that the subject matter is confidential, that its public discussion would be illegal, that it is a matter not within the jurisdiction of the Council or for any other cause deemed sufficient by the Council. Any person allowed to speak who shall depart from the subject under discussion or who shall make personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Council shall be declared out of order by the Mayor, or by vote of the Council, and barred from speaking further before the Council unless permission to continue shall be granted by a majority vote of the Council, under such restrictions as the Council may provide.”

**The City of Hickory holds all public meetings in accessible rooms.
Special requests for accommodation should be submitted by individuals
with disabilities at least 48 hours before the scheduled meeting.
Phone Services (hearing impaired) – Call 711 or 1-800-735-2962**